

[Filed 3-29-07]
FILED

IN THE IOWA DISTRICT COURT IN AND FOR WINNEBAGO COUNTY MAR 29 PM 1:11

STATE OF IOWA, ex rel., IOWA
DEPARTMENT OF NATURAL
RESOURCES (99AG23542),

Plaintiff,

vs.

GOLDEN OVAL EGGS, L.L.C.,

Defendant.

LAW NO. LACV016493

PETITION AT LAW

COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources (DNR) and for its claim against Defendant Golden Oval Eggs, L.L.C. (Golden Oval), states as follows:

Introduction

1. The State of Iowa seeks the assessment of civil penalties and injunctive relief against Defendant Golden Oval for violating its National Pollutant Discharge Elimination System (NPDES) Permit by repeatedly exceeding applicable effluent limitations for biochemical oxygen demand, total suspended solids, and ammonia-nitrogen for wastewater discharges from its egg breaking operation, and for failing to properly operate and maintain the facilities in order to comply with the permit.

Parties

2. The State of Iowa is a sovereign state of the United States of America.
3. The Iowa Department of Natural Resources (DNR) is a duly constituted agency of the State of Iowa pursuant to Iowa Code section 455A.2.

4. Defendant Golden Oval is a limited liability company organized under the laws of Delaware, with its principal place of business at 13780 - 450th Street, Thompson, Winnebago County, Iowa. Golden Oval operates as the successor to Midwest Investors of Renville, Inc., d/b/a Golden Oval Eggs Cooperative.

Definitions

5. "Effluent standard" means "any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, radiological, and other constituents which are discharged from point sources into any water of the state including an effluent limitation, a water quality related effluent limitation, a standard of performance for a new source, a toxic effluent standard, or other limitation." Iowa Code § 455B.171(6).

6. "Point source" means "any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit . . . from which pollutants are or may be discharged." Iowa Code § 455B.171(17).

7. "Pollutant" means "sewage, industrial waste, or other waste." Iowa Code § 455B.171(18).

8. "Treatment works" means "any plant, disposal field, lagoon, holding or flow-regulating basin, pumping station, or other works installed for the purpose of treating, stabilizing, or disposing of sewage, industrial waste, or other wastes." Iowa Code § 455B.171(35).

9. "Water of the state" means "any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or

accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof." Iowa Code § 455B.171(37).

Jurisdiction

10. The DNR is the agency of the state responsible for the prevention, abatement, or control of water pollution. Iowa Code § 455B.172(1). The DNR maintains jurisdiction over and regulates the direct discharge of pollutants to a water of the state. Iowa Code § 455B.172(5).

11. The Iowa Environmental Protection Commission ("EPC") has authority to establish water quality standards, pretreatment standards, and effluent standards; and adopt rules relating to the location, construction, operation, and maintenance of disposal systems; permits for the operation, installation, construction, addition to, or modification of disposal systems, or for the discharge of any pollutant; and inspection, monitoring, record keeping, and reporting requirements for owners and operators of disposal systems. Iowa Code §§ 455A.6(6) and 455B.173(2), (3) and (6). The EPC's rules implementing these provisions are contained in 567 Iowa Admin. Code 60-69.

12. The dumping, depositing, or discharging of pollutants into any water of the state is prohibited, except adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the DNR. Iowa Code § 455B.186(1).

13. Operation of any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the DNR, is prohibited. 567 Iowa Admin. Code 64.3(1).

14. A person who violates any provision of Iowa Code chapter 455B, Division III, Part 1 or any permit, rule, standard, or order issued thereunder shall be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each day of such violation. Iowa Code section 455B.191(1).

15. The Attorney General is authorized, at the request of the DNR director with approval of the EPC, to initiate any legal proceedings, including an action for an injunction or temporary injunction, necessary to enforce the penalty provisions of Iowa Code chapter 455B, Division III, Part 1, or to obtain compliance with the provisions of said statutes or any rules promulgated or any provision of any permit issued thereunder. Iowa Code § 455B.191(4).

Facts

16. On December 5, 2006, the EPC referred Golden Oval to the Attorney General for judicial enforcement arising from the matters referred to in paragraphs seventeen (17) through twenty-nine (29).

17. Golden Oval is primarily engaged in the business of producing, processing, marketing and distributing egg products. The company owns and operates an egg breaking facility in Section 6, T99N, R24W in Winnebago County, Iowa. The facility consists of twenty-two (22) barns with 5.7 million chickens. The industrial wastewater produced from the egg breaking operation is treated through a wastewater treatment works. The treatment works consists of a four (4) cell aerobic lagoon, two (2) trickling filters, and two (2) final clarifiers.

18. Golden Oval discharges its wastewater into Winnebago County Drainage Ditch #18, which is a tributary to Pike Run Creek, which in turn is a tributary of the Winnebago River. Wastewater discharged from Golden Oval's treatment works constitute a "pollutant" as defined

in Iowa Code section 455B.171(18). The Winnebago River and its tributary stream, watercourses, waterways and drainage systems are each a "water of the state" as defined in Iowa Code section 455B.171(37).

19. On April 11, 2000, the DNR issued National Pollutant Discharge Elimination System (NPDES) Permit No. 9500102 to Golden Oval, a copy of which is attached, marked as Exhibit A and incorporated by reference. The NPDES permit established effluent limitations for biochemical oxygen demand (BOD), total suspended solids (TSS), and ammonia nitrogen (N). The effluent limitations provided 30 day average and daily maximum limitations for the concentration (strength) and mass (weight) of BOD, TSS and N. The NPDES permit further required Golden Oval to sample the effluent discharge and submit monthly reports with the results of monitoring to the DNR.

20. Condition 8 of NPDES Permit No. 9500102 required that Golden Oval operate all facilities and control systems as efficiently as possible and maintain the facilities and control systems in good working order. Condition 8 also states that Golden Oval shall retain sufficient, adequately trained and knowledgeable staff, and provide appropriate quality assurance procedures to maintain compliance with the conditions of the permit.

21. On April 11, 2000, the DNR also issued a construction permit to Golden Oval for the construction of its wastewater treatment facility, a copy of which is attached, marked as Exhibit B and incorporated by reference. The construction permit provided that the facility is designed to treat an organic loading of 2,111 pounds of BOD per day while handling an average hydraulic loading of 142,700 gallons per day.

22. The number of barns at the operation has increased from the construction of the facility in 2000 through 2006. In 2002, there were nine (9) barns at the Golden Oval facility. By 2004, there were fifteen (15) barns. DNR officials found that by 2006, Golden Oval had expanded its operation to twenty-two (22) barns.

23. On July 29, 2002, DNR officials inspected the Golden Oval wastewater treatment facility and reviewed monthly operating reports for the period August, 2001 through June, 2002. The effluent limitations for BOD concentration, TSS mass and concentration, and N mass and concentration were exceeded during this period. The BOD loading exceeded 2,111 pounds on several occasions. DNR officials notified Golden Oval that it must comply with the effluent limits, and not exceed the daily loading of BOD. Golden Oval responded that it would immediately take steps to reduce the loading to the wastewater treatment facility.

24. On December 6, 2004, DNR officials inspected the Golden Oval facility and reviewed monthly operating reports for the period September, 2003 through September, 2004. Again, the 30 day average and daily maximum concentrate and mass effluent limits for BOD, TSS and N were exceeded for several months. When notified of these violations, representatives of Golden Oval stated that the company and its consulting engineer were evaluating the facility and would address the effluent treatment violations.

25. On May 16, 2006, DNR officials inspected the Golden Oval facility and reviewed monthly operating reports for the period April, 2005 through March, 2006. During this period, the effluent limitations for BOD mass and concentration, TSS mass and concentration and N mass and concentration were all exceeded. The BOD loading for the facility exceeded 2,111

pounds per day during this period as well. On June 14, 2006, DNR officials forwarded a Notice of Violation to Golden Oval regarding these violations of the effluent limits in its permit.

26. On July 20, 2006, DNR officials again inspected the Golden Oval facility, and reviewed monthly operation reports for the period April, 2006 through June, 2006. Excessive BOD loadings continued. Violations of the 30 day average and daily maximum effluent limits for concentration and mass for BOD, TSS and N occurred every month. On August 24, 2006, DNR officials issued another Notice of Violation to defendant stating that the facility was in significant non-compliance with the permit effluent limits.

27. On October 18, 2006, DNR officials again inspected the Golden Oval wastewater treatment facility and reviewed monthly operation reports for the period July, 2006, through September, 2006. Violations of the 30 day average and daily maximum effluent limits for concentration and mass for BOD, TSS and N occurred every month. Excessive BOD loadings continued. On November 13, 2006, DNR officials forwarded a third Notice of Violation to the defendant stating the facility continued to violate the permit effluent limits and that loadings continued to exceed the design capacity.

28. Despite three (3) Notices of Violation, Golden Oval continued to violate the effluent limitations for its wastewater treatment facility during the period October, 2006 through February, 2007. The effluent limitations for BOD concentration, TSS concentration, and for N concentration and mass were exceeded during this period.

29. Golden Oval discharged wastewater into a water of the state at levels exceeding the 30 day average and daily maximum effluent limitations for concentration and/or mass for biochemical oxygen demand (BOD), total suspended solids (TSS) and/or ammonia nitrogen (N)

during the time period including but not limited to April, May and September, 2005; January, February, March, April, May, June, July, August, September, October and December, 2006; and January and February, 2007.

Violations

30. Golden Oval has repeatedly discharged pollutants into a water of the state at levels exceeding monthly average and/or daily maximum effluent limitations for biochemical oxygen demand (BOD), total suspended solids (TSS), and/or ammonia nitrogen (N) during the time period including but not limited to April, May and September, 2005; January, February, March, April, May, June, July, August, September, October and December, 2006; and January and February, 2007, in violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1) and NPDES Permit No. 9500102.

31. Golden Oval has failed to operate its facility as efficiently as possible, and failed to provide appropriate quality assurance procedures to maintain compliance with the conditions of its permit in violation of 567 Iowa Admin. Code 64.3(1) and NPDES Permit No. 9500102, Condition 8.

Prayer for Relief

WHEREFORE, Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources requests that the court:

- a. assess a civil penalty against Defendant Golden Oval Eggs, L.L.C., pursuant to Iowa Code section 455B.191(1) for each day of violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and NPDES Permit No. 9500102, not to exceed Five Thousand Dollars (\$5,000.00) for each day of such violation; and

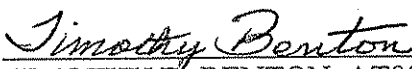
- b. issue a permanent injunction enjoining Defendant Golden Oval Eggs, L.L.C. from any violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and NPDES Permit No. 9500102.

Plaintiff further requests that the Court tax the costs of this action to the defendant and provide such other relief as the Court may deem just and proper.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

DAVID R. SHERIDAN
Assistant Attorney General


TIMOTHY D. BENTON, AT0000843
Assistant Attorney General
Environmental Law Division
Lucas State Office Building
321 E. 12th Street, Ground Flr.
Des Moines, Iowa 50319
Phone: (515) 281-6637
Fax: (515) 242-6072
E-mail: tbenton@ag.state.ia.us
ATTORNEYS FOR PLAINTIFF

IOWA DEPARTMENT OF NATURAL RESOURCES
National Pollutant Discharge Elimination System (NPDES) Permit

OWNER NAME & ADDRESS

GOLDEN OVAL EGGS COOPERATIVE
P. O. BOX 615
RENVILLE, MN 56284 - 0000

FACILITY NAME AND ADDRESS

GOLDEN OVAL EGGS COOPERATIVE
13780 450TH STREET
THOMPSON, IA 50478 - 0000

Section 6, T 99N, R 24W
WINNEBAGO County

IOWA NPDES PERMIT NUMBER: 9500102

DATE OF ISSUANCE: 4/11/2000

DATE OF EXPIRATION: 4/1/2005

**YOU ARE REQUIRED TO FILE FOR
RENEWAL OF THIS PERMIT BY:** 10/1/2004

EPA NUMBER: IA0076252

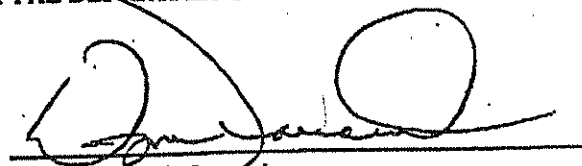
This permit is issued pursuant to the authority of section 402(b) of the Clean Water Act (33 U.S.C 1342(b)), Iowa Code section 455B.174, and rule 567-64.3, Iowa Administrative Code. You are authorized to operate the disposal system and to discharge the pollutants specified in this permit in accordance with the effluent limitations, monitoring requirements and other terms set forth in this permit.

You may appeal any condition of this permit by filing a written notice of appeal and request for administrative hearing with the director of this department within 30 days of your receipt of this permit.

Any existing, unexpired Iowa operation permit or Iowa NPDES permit previously issued by the department for the facility identified above is revoked by the issuance of this permit. This provision does not apply to any authorization to discharge under the terms and conditions of a general permit issued by the department or to any permit issued exclusively for the discharge of stormwater.

FOR THE DEPARTMENT OF NATURAL RESOURCES

By



Wayne Farrand, Supervisor
Wastewater Section

ENVIRONMENTAL SERVICES DIVISION

Facility Name: GOLDEN OVAL EGGS COOPERATIVE

Permit Number: 9500102

Outfall
Number

Outfall Description

001

DISCHARGE FROM AN EGG BREAKING OPERATION IS TREATED WITH A FOUR CELL AERATED LAGOON FOLLOWED BY TWO PLASTIC MEDIA TRICKLING FILTERS AND TWO FINAL CLARIFIERS.

Receiving Stream: WINNEBAGO RIVER

Route of Flow: DRAINAGE DITCH #18 TO PIKE RUN TO THE WINNEBAGO RIVER

Class B(WW) waters are significant resource warm waters in which temperature, flow, and other habitat characteristics are suitable for the maintenance of a wide variety of reproducing populations of warm water fish and associated aquatic communities, including sensitive species.

Facility Name: GOLDEN OVAL EGGS COOPERATIVE

Permit Number: 9500102

Effluent Limitations

Outfall No.: 001 DISCHARGE FROM AN EGG BREAKING OPERATION IS TREATED WITH A FOUR CELL AERATED LAGOON FOLLOWED BY TWO

You are prohibited from discharging pollutants except in compliance with the following effluent limitations:

Wastewater Parameter	Season	Type of Limit	% Removal	Concentration				Mass			
				7 Day Average/Min	30 Day Average	Daily Maximum	Units	7 Day Average	30 Day Average	Daily Maximum	Unit
BIOCHEMICAL OXYGEN DEMAND (BOD5)	YEARLY	FINAL			10.0	45.0	MG/L		36.0	54.0	LBS/DAY
TOTAL SUSPENDED SOLIDS	YEARLY	FINAL			10.0	45.0	MG/L		36.0	54.0	LBS/DAY
AMMONIA NITROGEN (NH)	JAN	FINAL			10.0	22.0	MG/L		14.0	31.0	LBS/DAY
AMMONIA NITROGEN (NH)	FEB	FINAL			10.0	22.0	MG/L		14.0	31.0	LBS/DAY
AMMONIA NITROGEN (NH)	MAR	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	APR	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	MAY	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	JUN	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	JUL	FINAL			6.0	13.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	AUG	FINAL			6.0	13.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	SEP	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	OCT	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	NOV	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
AMMONIA NITROGEN (NH)	DEC	FINAL			8.0	17.0	MG/L		10.0	23.0	LBS/DAY
PH (MINIMUM - MAXIMUM)	YEARLY	FINAL		6.0		9.0	STD UNITS				

Note: If seasonal limits apply, summer is from April 1 through October 31, and winter is from November 1 through March 31.

Facility Name: GOLDEN OVAL EGGS COOPERATIVE

Permit Number: 9500102

Monitoring and Reporting Requirements

- (a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.
- (b) Analytical and sampling methods specified in 40 CFR Part 136 or other methods approved in writing by the department shall be utilized.
- (c) Chapter 63 of the Iowa Administrative Code provides you with further explanation of your monitoring requirements.
- (d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).
- (e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and shall be submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each reporting period.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	RECIRCULATION FLOW	3 TIMES PER WEEK	MEASUREMENT	RECIRCULATION FLOW TO THE PLASTIC MEDIA BIO-FILTERS
001	BIOCHEMICAL OXYGEN DEMAND (BOD5)	1 EVERY 3 MONTHS	GRAB	OUTLET #2 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	AMMONIA NITROGEN (N)	1 EVERY 3 MONTHS	GRAB	OUTLET #2 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	OUTLET #2 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	NITROGEN, TOTAL KJELDAHL (AS N)	1 EVERY 3 MONTHS	GRAB	OUTLET #2 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	SOLIDS, DISSOLVED	1 EVERY 3 MONTHS	GRAB	OUTLET #2 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	BIOCHEMICAL OXYGEN DEMAND (BOD5)	1 EVERY 3 MONTHS	GRAB	OUTLET #1 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	AMMONIA NITROGEN (N)	1 EVERY 3 MONTHS	GRAB	OUTLET #1 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	NITRATE NITROGEN (AS N)	1 EVERY 3 MONTHS	GRAB	OUTLET #1 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	NITROGEN, TOTAL KJELDAHL (AS N)	1 EVERY 3 MONTHS	GRAB	OUTLET #1 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	SOLIDS, DISSOLVED	1 EVERY 3 MONTHS	GRAB	OUTLET #1 OF THE GROUNDWATER LOWERING TILE SYSTEM
001	FLOW	7/WEEK OR DAILY	24 HOUR TOTAL	RAW WASTE
001	BIOCHEMICAL OXYGEN DEMAND (BOD5)	2 TIMES PER WEEK	24 HOUR COMPOSITE	RAW WASTE
001	TOTAL SUSPENDED SOLIDS	1 TIME PER WEEK	24 HOUR COMPOSITE	RAW WASTE
001	PH (MINIMUM - MAXIMUM)	2 TIMES PER WEEK	GRAB	RAW WASTE

Facility Name: GOLDEN OVAL EGGS COOPERATIVE
Permit Number: 9500102

Monitoring and Reporting Requirements

- (a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.
- (b) Analytical and sampling methods specified in 40 CFR Part 136 or other methods approved in writing by the department shall be utilized.
- (c) Chapter 63 of the Iowa Administrative Code provides you with further explanation of your monitoring requirements.
- (d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).
- (e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and shall be submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each reporting period.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	TEMPERATURE	2 TIMES PER WEEK	GRAB	RAW WASTE
001	FLOW	7/DAY OR DAILY	24 HOUR TOTAL	FINAL EFFLUENT
001	BIOCHEMICAL OXYGEN DEMAND (BOD5)	2 TIMES PER WEEK	24 HOUR COMPOSITE	FINAL EFFLUENT
001	TOTAL SUSPENDED SOLIDS	1 TIME PER WEEK	24 HOUR COMPOSITE	FINAL EFFLUENT
001	AMMONIA NITROGEN (N)	2 TIMES PER WEEK	24 HOUR COMPOSITE	FINAL EFFLUENT
001	PH (MINIMUM - MAXIMUM)	2 TIMES PER WEEK	GRAB	FINAL EFFLUENT
001	SETTLABLE SOLIDS	3 TIMES PER WEEK	GRAB	FINAL EFFLUENT
001	TEMPERATURE	2 TIMES PER WEEK	GRAB	FINAL EFFLUENT
001	DISSOLVED OXYGEN (DAILY MINIMUM)	2 TIMES PER WEEK	GRAB	AERATED CELL 4 CONTENTS
001	DISSOLVED OXYGEN (DAILY MINIMUM)	2 TIMES PER WEEK	GRAB	AERATED CELL 3 CONTENTS
001	DISSOLVED OXYGEN (DAILY MINIMUM)	2 TIMES PER WEEK	GRAB	AERATED CELL 2 CONTENTS
001	DISSOLVED OXYGEN (DAILY MINIMUM)	2 TIMES PER WEEK	GRAB	AERATED CELL 1 CONTENTS

STANDARD CONDITIONS

1. DEFINITIONS

- (a) 7 day average means the sum of the total daily discharges by mass, volume or concentration during a 7 consecutive day period, divided by the total number of days during the period that measurements were made. Four 7 consecutive day periods shall be used each month to calculate the 7-day average. The first 7-day period shall begin with the first day of the month.
- (b) 30 day average means the sum of the total daily discharges by mass, volume or concentration during a calendar month, divided by the total number of days during the month that measurements were made.
- (c) daily maximum means the total discharge by mass, volume or concentration during a twenty-four hour period.

2. DUTY TO COMPLY

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Issuance of this permit does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility.
(See 40 CFR 122.41(a) and 567-64.7(d)(e)) IAC)

3. DUTY TO REAPPLY

If you wish to continue to discharge after the expiration date of this permit you must file an application for reissuance at least 180 days prior to the expiration date of this permit.
(See 567-64.8(1) IAC)

4. NEED TO HALT OR REDUCE ACTIVITY

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
(See 40 CFR 122.41(c) and 567-64.7(5)(f) IAC)

5. DUTY TO MITIGATE

You shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
(See 40 CFR 122.41(d) and 567-64.7(5)(i) IAC)

6. PROPERTY RIGHTS

This permit does not convey any property rights of any sort or any exclusive privileges.

7. TRANSFER OF TITLE

If title to your facility, or any part of it, is transferred the new owner shall be subject to this permit.
(See 567-64.14 IAC)

You are required to notify the new owner of the requirements of this permit in writing prior to any transfer of title. The Director shall be notified in writing within 30 days of the transfer.

8. PROPER OPERATION AND MAINTENANCE

All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit.
(See 40 CFR 122.41(e) and 567-64.7(5)(f) IAC)

9. DUTY TO PROVIDE INFORMATION

You must furnish to the Director, within a reasonable time, any information the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to the Director, upon request, copies of any records required to be kept by this permit.

10. MAINTENANCE OF RECORDS

You are required to maintain records of your operation in accordance with 567-63.2 IAC.

11. PERMIT MODIFICATION, SUSPENSION OR REVOCATION

(a) This permit may be modified, suspended, or revoked and reissued for cause including but not limited to those specified in 567-64.3(11) IAC.

(b) This permit may be modified due to conditions or information on which this permit is based, including any new standard the department may adopt that would change the required effluent limits.
(See 567-64.3(11) IAC)

(c) If a toxic pollutant is present in your discharge and more stringent standards for toxic pollutants are established under Section 307(a) of the Clean Water Act, this permit will be modified in accordance with the new standards.
(See 40 CFR 122.62(a)(6) and 567-64.7(5)(g) IAC)

The filing of a request for a permit modification, revocation or suspension, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

12. SEVERABILITY

The provisions of this permit are severable and if any provision or application of any provision to any circumstance is found to be invalid by this department or a court of law, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected by such finding.

STANDARD CONDITIONS

13. INSPECTION OF PREMISES, RECORDS, EQUIPMENT, METHODS AND DISCHARGES

You are required to permit authorized personnel to:

- (a) Enter upon the premises where a regulated facility or activity is located or conducted or where records are kept under conditions of this permit.
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- (c) Inspect, at reasonable times, any facilities, equipment, practices or operations regulated or required under this permit.
- (d) Sample or monitor, at reasonable times, for the purpose of assuring compliance or as otherwise authorized by the Clean Water Act.

14. TWENTY-FOUR HOUR REPORTING

You shall report any noncompliance that may endanger human health or the environment. Information shall be provided orally within 24 hours from the time you become aware of the circumstances. A written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times, whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a recurrence of the noncompliance must be provided within 5 days of the occurrence. The following instances of noncompliance must be reported within 24 hours of occurrence:

- (a) Any unanticipated bypass which exceeds any effluent limitation in the permit.
(See 40 CFR 122.41(f)(5)(ii)(A))
- (b) Any upset which exceeds any effluent limitation in the permit.
(See 40 CFR 122.41(f)(5)(ii)(B))
- (c) Any violation of a maximum daily discharge limit for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
(See 40 CFR 122.41(f)(5)(ii)(C))

15. OTHER NONCOMPLIANCE

You shall report all instances of noncompliance not reported under Condition #14 at the time monitoring reports are submitted.

16. ADMINISTRATIVE RULES

Rules of this Department which govern the operation of your facility in connection with this permit are published in Part 567 of the Iowa Administrative Code (IAC) in Chapters 60-64 and 120-122. Reference to the term "rule" in this permit means the designated provision of Part 567 of the Iowa Administrative Code.

17. NOTICE OF CHANGED CONDITIONS

You are required to report any changes in existing conditions or information on which this permit is based:

- (a) Facility expansions, production increases or process modifications which may result in new or increased discharges of pollutants must be reported to the Director in advance. If such discharges will exceed effluent limitations, your report must include an application for a new permit.
(See 567-64.7(5)(a) IAC)
 - (b) If any modification of, addition to, or construction of a disposal system is to be made, you must first obtain a written permit from this Department.
(See 567-64.2 IAC)
 - (c) If your facility is a publicly owned treatment works or otherwise may accept waste for treatment from industrial contributors see 567-64.3(5) IAC for further notice requirements.
 - (d) You shall notify the Director as soon as you know or have reason to believe that any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in this permit.
(See 40 CFR 122.47(a))
- You must also notify the Director if you have begun or will begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application

18. OTHER INFORMATION

Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report, you must promptly submit such facts or information.

STANDARD CONDITIONS

19. UPSET PROVISION

(a) Definition - "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense in an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph "c" of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for demonstration of an upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset.
- (2) The permitted facility was at the time being properly operated; and
- (3) The permittee submitted notice of the upset to the Department in accordance with 40 CFR 122.41(l)(6)(ii)(B).
- (4) The permittee complied with any remedial measures required by Item #5 of the Standard Conditions of this permit.

(d) Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

20. FAILURE TO SUBMIT FEES

This permit may be revoked, in whole or in part, if the appropriate permit fees are not submitted within thirty (30) days of the date of notification that such fees are due.

21. BYPASSES

(a) Definition - Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(b) Prohibition of bypass. Bypass is prohibited and the department may take enforcement action against a permittee for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance;

(3) The permittee submitted notices as required by paragraph "d" of this section.

(c) The Director may approve an anticipated bypass after considering its adverse effects if the Director determines that it will meet the three conditions listed above.

(d) Reporting bypasses. Bypasses shall be reported in accordance with 567-63.6 IAC.

22. SIGNATORY REQUIREMENTS

Applications, reports or other information submitted to the Department in connection with this permit must be signed and certified as required by 567-64.3(8) IAC.

23. USE OF CERTIFIED LABORATORIES

Effective October 1, 1996, analyses of wastewater, groundwater or sewage sludge that are required to be submitted to the department as a result of this permit must be performed by a laboratory certified by the State of Iowa. Routine, on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements, and operational monitoring tests specified in 567-63.3(4) are excluded from this requirement.

STATE OF IOWA
DEPARTMENT OF NATURAL RESOURCES
HENRY A. WALLACE BUILDING
DES MOINES, IOWA 50319

CONSTRUCTION PERMIT

Golden Oval Eggs
P.O. Box 615
Renville, MN. 56284

Attn: Terrance Heying

PERMIT NO.: 2000-220-S

FILE: Sewage

RE: Golden Oval Eggs

PROJECT NO: S2000-242

In accordance with the provisions of Section 455B.173.3 and 455B.174.4, Code of Iowa, and Rule 567-64.2(455B) or Rule 567-65.6(455B), or Rule 567-22.1(1)"c"(455B) of the Iowa Administrative Code, the Director of the Department of Natural Resources does hereby issue a permit for the construction of:

A complete facility to treat wastewater from an egg breaking operation. The treatment system approved under this construction permit includes a four cell aerated lagoon, two plastic media trickling filters and two final clarifiers. The facility is designed to treat an organic loading of 2111 pounds of BOD₅ per day while handling an average daily hydraulic loading of 142,700 gallons per day (210,000 gpd maximum). The facility has been designed to meet the following effluent limitations:

<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD ₅	30 mg/l	45 mg/l
Suspended Solids	30 mg/l	45 mg/l
Ammonia (as N)		
Summer	6 mg/l	13 mg/l
Winter	10 mg/l	22 mg/l
Spring	8 mg/l	17 mg/l

Construction of the project shall be initiated within one year of issuance of this permit or this permit is no longer valid. Within thirty days after completion of construction, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved project documents.

Pursuant to Section 455B.174.4, Code of Iowa, you have the right to appeal any condition of this permit by filing with the Director of the Department of Natural Resources a notice of appeal and request for administrative hearing within thirty days of receipt of this permit.

Please contact Robert Palla at 515/281-8868 with any questions or comments.

For the Department of Natural Resources:

Paul W. Johnson, Director

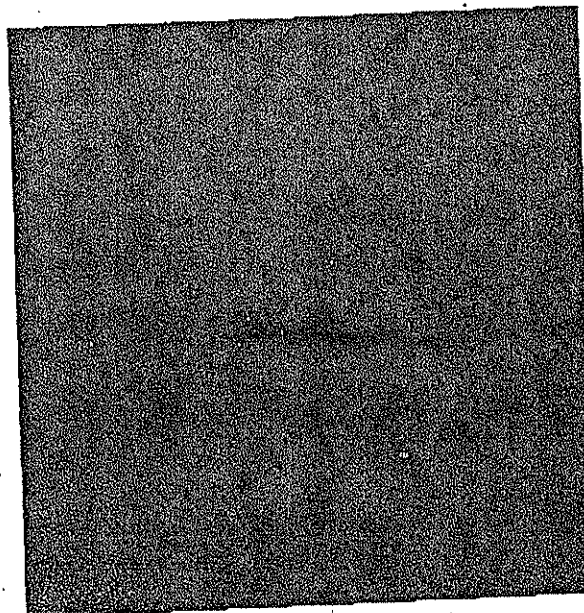
By: 
ENVIRONMENTAL PROTECTION DIVISION

Date: April 11, 2000

cc: Craig Olson, Yaggy Colby Assoc., Mason City, IA.
DNR Field Office 2

Plan Distribution

1 Engineer; 1 Field Office; 1 DNR File



REC
11 MAY
1999
NATURAL RESOURCES
ADMINISTRATIVE